

**FRIDAY, NOVEMBER 5, 2010**

Notice having been duly given, the regular meeting of the South Coast Air Quality Management District Board was held at District Headquarters, 21865 Copley Drive, Diamond Bar, California. Members present:

William A. Burke, Ed.D., Chairman  
Speaker of the Assembly Appointee

Mayor Dennis R. Yates, Vice Chairman  
Cities of San Bernardino County

Supervisor Michael D. Antonovich  
County of Los Angeles

Supervisor John J. Benoit  
County of Riverside

Councilmember Michael A. Cacciotti  
Cities of Los Angeles County – Eastern Region

Ms. Jane W. Carney  
Senate Rules Committee Appointee

Dr. Joseph K. Lyou  
Governor's Appointee

Councilmember Judith Mitchell  
Cities of Los Angeles County – Western Region

Councilmember Jan Perry  
City of Los Angeles

Members Absent:

Supervisor Bill Campbell  
County of Orange

Supervisor Josie Gonzales  
County of San Bernardino

Mayor Ronald O. Loveridge  
Cities of Riverside County

Mayor Miguel A. Pulido  
Cities of Orange County

**CALL TO ORDER:** Chairman Burke called the meeting to order at 9:15 a.m.

- Pledge of Allegiance: Led by Dr. Lyou.
- Opening Comments

Dr. Lyou. Announced that he appreciated the opportunity to tour the Exxon and BP refineries in early October with regard to the proposed RECLAIM Regulation; on October 6, 2010 he attended a WSPA Conference and served on a panel to discuss electrification of the transportation infrastructure and, subsequently, attended a demonstration project for a zero-emission cargo transport rail system at General Atomics which exhibited the progress that has been made in magnetic technology; and on October 29, 2010 he chaired the Environmental Justice Advisory Group Meeting in which a discussion took place regarding the positioning of schools near freeways and heavily traveled roadways.

Councilman Cacciotti. Thanked the Board Members who have met with leaders in various faith communities through the Community of Faith Partnerships, which is an effort to encourage faith communities and congregations to be good stewards of the environment.

- Presentation of Retirement Award to Martha Lucero

Chairman Burke presented a retirement award to Martha Lucero in recognition of her 22 years of dedicated District service.

## **CONSENT CALENDAR**

1. Minutes of October 1, 2010 Board Meeting and Minutes of October 29, 2010 Special Board Meeting
2. Set Public Hearings December 3, 2010 to Consider Amendments and/or Adoption to AQMD Rules and Regulations
  - (A). Amend Rule 1415 – Reduction of Refrigerant Emissions from Stationary Refrigeration and Air Conditioning Systems, and Adopt Rule 1415.1 - Reduction of Refrigerant Emissions from Stationary Refrigeration Systems

- (B). Amend Rule 1143 - Consumer Paint Thinners & Multi-Purpose Solvents

**Budget/Fiscal Impact**

3. Advertising and Public Outreach Initiative to Chinese-American Communities to Increase Awareness of Impacts of Air Pollution
4. Execute Contract for Security Guard Services at Diamond Bar Headquarters
5. Authorize Executive Officer to Waive Late Fees Incurred by State Agencies Due to Delay in Adoption of State Budget
6. Execute Contract for Biennial Audit of Motor Vehicle Registration Revenues for FYs 2007-08 and 2008-09
7. Appropriate Funds for PAMS and Lead Monitoring Programs from U.S. EPA Section 105, Recognize and Appropriate Funds for Section 103 Monitoring Programs, and Authorize Purchases and Release of RFQ Under These Programs
8. Execute Contracts to Conduct Conceptual Feasibility Studies for Reduction of Near Roadway Pollutant Exposures
9. Execute Contract To Provide Technical Assistance for Alternative-Fueled Trucks Funded Under AQMD's Heavy-Duty Diesel Truck Replacement Program
10. Execute Sole Source Contract for Buy-Down Incentive Program for CNG Home Refueling Appliance
11. Execute Contracts to Support Electric Charging Infrastructure
12. Authorize Purchase of Desktop Computer Hardware Upgrades
13. Authorize Purchase of Ingres Relational Database Management System Software Support
14. Issue RFP for Greenhouse Gas Reduction Projects

15. Appropriate Funds from Designation for Litigation and Enforcement and Authorize Amending/Initiating Contracts with Outside Counsel
16. Approve Contract Modifications and Award under FYs 2003-04, 2008-09 and 2010-11 AB 2766 Discretionary Fund Work Programs

**Action Item/No Fiscal Impact**

17. Establish Board Meeting Schedule for Calendar Year 2011

**Information Only/Receive and File**

18. Legislative & Public Affairs Report
19. Hearing Board Report
20. Civil Filings and Civil Penalties Report
21. Rule and Control Measure Forecast
22. Lead Agency Projects and Environmental Documents Received by AQMD
23. Status Report on Major Projects for Information Management Scheduled to Start During First Six Months of FY 2010-11

Dr. Lyou announced his abstention on Item No. 8 due to U.C. Riverside being a potential source of income to him, and Item No. 16 due to Los Angeles Freightliner being a potential source of income to him. In regards to Item 16, Supervisor Benoit noted that he is a Member of the Riverside County Transportation Commission.

Agenda item 14 was withheld for discussion.

MOVED BY PERRY, SECONDED BY CACCIOTTI, AGENDA ITEMS 1 THROUGH 13 AND 15 THROUGH 23 APPROVED AS RECOMMENDED, ADOPTING RESOLUTION NO. 10-28, SETTING THE TIME AND PLACE OF REGULAR BOARD MEETINGS FOR CALENDAR YEAR 2011, BY THE FOLLOWING VOTE:

AYES: Antonovich, Benoit, Burke, Cacciotti, Carney, Lyou (*except Items #8 and #16*), Mitchell, Perry and Yates.

NOES: None.

ABSTAIN: Lyou (*Items #8 and #16 only*).

ABSENT: Campbell, Gonzales, Loveridge and Pulido.

24. Items Deferred from Consent Calendar

14. Issue RFP for Greenhouse Gas Reduction Projects

Ms. Carney asked staff to describe the GHG reduction protocols that are currently in place and whether there are new protocols being developed.

Jill Whynot, Director of Strategic Initiatives, explained that the protocols that are currently approved under Regulation XXVII Climate Change include forestry, urban tree planting, methane digesters and boiler efficiency. She noted other protocols that are being investigated include refrigerant replacement and lawn mowers and leaf blowers; and added that staff will present the developed protocols to the Board when the development process is complete.

MOVED BY CARNEY, SECONDED BY YATES, AND UNANIMOUSLY CARRIED (Absent: Campbell, Gonzales, Loveridge and Pulido), AGENDA ITEM 14 APPROVED, AS RECOMMENDED BY STAFF.

**BOARD CALENDAR**

- 25. Administrative Committee
- 26. Climate Change Committee
- 27. Legislative Committee
- 28. Mobile Source Committee
- 29. Refinery Committee
- 30. Stationary Source Committee
- 31. Technology Committee
- 32. Mobile Source Air Pollution Reduction Review Committee
- 33. California Air Resources Board Monthly Report

MOVED BY YATES, DULY SECONDED, THE BOARD APPROVED AGENDA ITEMS 25 THROUGH 33 AS RECOMMENDED, RECEIVING AND FILING THE BOARD COMMITTEES, MSRC, AND CARB REPORTS, APPROVING STAFF'S PARTICIPATION IN FUTURE DISCUSSIONS REGARDING SB 375, AND ADOPTING THE POSITIONS ON LEGISLATION AS SET FORTH BELOW, BY THE FOLLOWING VOTE:

AYES: Antonovich, Benoit, Burke, Cacciotti, Carney, Lyou, Mitchell, Perry and Yates.

NOES: None.

ABSENT: Campbell, Gonzales, Loveridge and Pulido.

<b>Bill/Title</b>	<b>Recommended Position</b>
H.R. 6291 (Richardson) Freight FOCUS Act of 2010	Support with Amendments

## **PUBLIC HEARINGS**

34. Adopt Proposed Rule 1420.1 - Emissions Standard for Lead From Large Lead-acid Battery Recycling Facilities

***(Continued from October 1, 2010 Board Meeting)***

Ms. Carney recused herself from Agenda Item No. 34 because of U.S. Battery being a source of income to her, and left the room.

Susan Nakamura, Planning and Rules Manager, gave the staff presentation. An errata sheet containing modifications to paragraph (h)(8) and the addition of subdivision (o) to the Proposed Rule, as well as modifications to the Resolution, was distributed to Board members and copies made available to the public.

In response to Dr. Lyou, Ms. Nakamura confirmed that the current monitoring stations will stay in place under the monitoring provision in the proposed rule.

Dr. Lyou asked what considerations go into the feasibility of investing penalty funds into the community impacted by violations, which was requested in comments from community groups.

Dr. Wallerstein replied that a variety of factors are considered, including the availability of projects in the community and also taking into account the extent of the impact to the exposed populations.

The public hearing was opened, and the following individuals addressed the Board on Agenda Item 34.

THOMAS LOHFF, Resident near Quemetco facility

Expressed a concern that sampling should be linked to the processing that facilities perform in order to determine how much they are polluting; and stressed that the rule should specify what type of feed materials should be used during processing in order to determine the true effect of processing on the community. (Submitted Written Comments)

Dr. Elaine Chang, DEO/Planning, Rule Development and Area Sources, responded that the proposed rule only addresses lead and the issues regarding total toxic emissions that Mr. Lohff raised are covered under other rules and legislation. She commented that with respect to testing, the proposed rule includes two tests; the source test from the point sources and also the ambient monitoring that captures all emissions.

Mr. Lohff raised the concern that the testing consists of averages throughout a 24-hour period and does not reflect the burst occurrences when the facilities add the processing materials.

Dr. Wallerstein responded that the ambient sampling is compiled over the course of a month and the results allow staff to look at the exposure over the full term, which results in an indication of true exposure.

DUNCAN McKEE, Resident near the Quemetco facility

Expressed support for the benefits the rule will provide but urged the Board to strengthen the rule by defining that the feed material used during testing will be indicative of that which is normally processed. He placed photographs of the stacks at the Quemetco facility on the overhead projector to illustrate his concern that the tests are being conducted when normal processing is not taking place; and when normal processing is taking place, there are visible emissions coming from the stacks. He also noted that the timing of the monitoring, every three days, is not ideal to obtain the true emission outputs. (Provided photographs for Board Members' review)

Dr. Wallerstein replied that staff will be conducting additional source tests of the Quemetco facility and they will ensure that the tests will be completed during normal operating conditions. He added that, with respect to monitoring, the facilities are also required to keep records of the amount of materials they are processing, which can then be cross-referenced if staff notices a peak in the ambient monitoring data in order to possibly correlate what part of the production would have caused a spike in the outdoor measurement.

JOE DOWD, Exide Technologies

Expressed support for the original proposal, but disagreed with the amendments that have been made, specifically, with regard to the feasibility study requirement concerning the 0.003 pounds-per-hour mass emission rate. He explained that the company submitted a plan to the District detailing nine significant projects that they plan to pursue in order to obtain the NAAQS standard of 0.15 micrograms per cubic meter of air ( $\text{mg}/\text{m}^3$ ). The cost associated with further technology implementations may be too burdensome for them to continue operations in California. They feel that Exide does not fit into the same categories as others in the industry because they utilize different technology, and, therefore, should not necessarily be subject to the same standard.

Dr. Wallerstein explained that the Board received a request from Quemetco to contemplate putting an emission limitation of 0.003 pounds per hour on stack emissions in the rule. Staff's investigation led to the proposal that the 0.003 not be written into the rule at this time as a stack limitation, but the rate should be as originally proposed at 0.045 pounds per hour. The health data shows that there is no absolute safe level for lead, so the District is trying to balance the level required for the NAAQS while taking that into account potential

health impacts. A feasibility study would be triggered if either company exceeds 0.12 mg/m<sup>3</sup>, where they would provide the Board with an analysis of the technical, economic and physical feasibility of achieving a total facility mass lead emission rate of 0.003 pounds per hour from all lead point sources. He explained that as a result of continued high readings from Exide's facility, the U.S. EPA changed the characterization of our region from attainment to non-attainment. Since Quemetco has been able to achieve the acceptable level of control and health concerns have been raised by neighboring workers and residents, staff believes it is reasonable to require a feasibility study from Exide if they exceed 0.12 mg/m<sup>3</sup>.

LUIS CABRALES, Coalition for Clean Air

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Expressed support for the most stringent emission levels possible through this regulation; and offered suggestions regarding the importance of gaining input from stakeholders during the analysis of a feasibility study.

Mayor Yates noted that the concerns and comments received from stakeholders through a series of meetings and town hall gatherings were taken into account by staff and the Stationary Source Committee members in developing the current proposal.

JOCELYN VIVAR, East Yard Communities for Environmental Justice

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Expressed appreciation that the comments made by their organization and the community have been taken into account; and acknowledged the positive step forward that this rule will make for reducing emissions.

MIKE BUCKANTZ, Quemetco, Inc.

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Expressed support for the proposed rule; and explained that they have taken steps to reduce emissions and will continue to do so to meet the tough, yet achievable, requirements of the rule.

Dr. Lyou brought up the question of the various feed stock that could cause differences in emission output readings.

Mr. Buckantz responded that Quemetco submits a testing plan to the District which indicates that testing will be performed with the feed stock that produces the highest level of lead emissions; so, staff is aware that it represents the maximum possible emissions based on full operational capabilities.

Dr. Chang replied that the Title V permits for the facilities specify the feed materials that they can feed into their furnaces and also the monitoring takes place throughout the day and night in order to obtain accurate data.

Monsignor John Moretta, Pastor of Resurrection Church

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Expressed concern for the communities and children who continued to be effected by Exide; and urged the Board to enforce controls to the maximum point of the law.

There being no further public testimony on this item, the public hearing was closed.

Written Comments Submitted By:

Sheppard Mullin on behalf of Exide Technologies, Inc.  
Howard Berman, Quemetco, Inc.

Mayor Yates explained that because of Exide being slow to take action in the past, he felt it necessary to include a provision in the rule for the feasibility study to be conducted if adequate progress is not being made by the measures detailed in the aggressive plan that they submitted to staff.

Councilwoman Mitchell commented that the Board must frequently balance environmental issues against economic impact considerations and this proposal accomplishes that with incremental changes that allow some flexibility to entities in reaching the final goal.

MOVED BY YATES, SECONDED BY CACCIOTTI,  
AND UNANIMOUSLY CARRIED (Absent:  
Campbell, Carney, Gonzales, Loveridge and  
Pulido), AGENDA ITEM 34 APPROVED,  
ADOPTING RESOLUTION NO. 10-29 CERTIFYING  
THE FINAL ENVIRONMENTAL ASSESSMENT  
AND ADOPTING RULE 1420.1, AS  
RECOMMENDED BY STAFF, WITH THE  
MODIFICATION TO PARAGRAPH (h)(8), THE  
ADDITION OF SUBDIVISION (o) AND THE  
MODIFICATION TO THE RESOLUTION AS SET  
FORTH IN THE ERRATA SHEET AND NOTED  
BELOW.

Modify paragraph (h)(8) of Proposed Rule 1420.1:

“(h)(8) Initiate removal of any lead-containing material, including sludge, from the entire surface area of any surface impoundment pond or reservoir holding storm water runoff or spent water from housekeeping activities within 1 hour after the water level is  $\leq 1$  inch ~~at any point~~ above the bottom of the pond or reservoir. **Removal of lead-containing material is required to be completed as soon as possible, and no later than six calendar days after the time initiation of the removal was required.** Thereafter, surfaces shall be washed down weekly in a manner that does not general fugitive lead-dust until the pond or reservoir is used again for holding water.”

Add new subdivision (o) to Proposed Rule 1420.1:

“(o) On and after July 1, 2011, if emissions are discharged into the atmosphere which contribute to ambient air concentrations of lead that exceed 0.12  $\mu\text{g}/\text{m}^3$ , averaged over any 30 consecutive days, determined by monitors pursuant to subdivision (j) or at any District-installed monitor, the owner or operator of a large lead-acid battery recycling facility shall submit a study addressing the technical, economic and physical feasibility of achieving a total facility mass lead emission rate of 0.003 pounds per hour from all lead point sources. The study shall be submitted within 30 calendar days after exceeding 0.12  $\mu\text{g}/\text{m}^3$ , averaged over any 30 consecutive days.”

Modify Resolution to add:

“BE IT FURTHER RESOLVED, that if a facility is required to submit a study that addresses the technical, economic and physical feasibility of achieving a total facility mass lead emission rate of 0.003 pounds per hour from all lead point sources, the AQMD staff shall, within 90 days after receipt of the study, present the findings to the Governing Board and seek guidance on whether to amend Rule 1420.1 to lower the total facility lead point source emission rate; and”

### 35. 2010 Clean Communities Plan

Susan Nakamura, Planning and Rules Manager, gave the staff presentation.

Councilwoman Perry asked what the process was for selecting the first two demonstration cities.

Dr. Wallerstein explained that staff considered several factors in selecting the initial template communities, including the unique types of pollution sources that are present in the community, as well as the ethnic mix and economic difficulties in the area. He described that the City of San Bernardino is

essentially an inland port with rail yards and warehouse operations, and the lessons learned there can be applied to similar communities in the Basin. Staff had conducted community meetings in Boyle Heights and was aware of the negative impacts they face as a community which neighbors the industrial City of Vernon, as well as rail yards and freeways. He added that staff did not select Wilmington as one of the initial projects because there is already a plan in progress which is addressing the issues that are specific to Wilmington and other resources are being directed into the community.

Councilwoman Perry suggested that the second round of projects could include cities that are located between the ports and Boyle Heights, where studies indicate high incidents of respiratory diseases and a high level of pollution. She added that the City of Vernon could be a desirable candidate due to the unique circumstances present there.

Dr. Wallerstein confirmed that staff will take that suggestion into consideration when selecting future projects after the pilot studies are underway.

Dr. Lyou expressed concern that the pilot study is not far-reaching enough and suggested conducting the study in Wilmington concurrently. He pointed to the results of the MATES III study which found that while the health risk in the rest of the Basin improved, the ports continued to get worse.

Dr. Wallerstein commented that staff is sensitive to the issues in Wilmington and continues to actively put considerable resources into the community including the work on the ports Clean Air Plan and the development of a backstop regulation. In addition to individual rule makings to make improvements, there are District funds and settlement funds going towards improvements such as installing filters in schools in the port area as well as conducting special monitoring studies in the Wilmington area.

Dr. Burke agreed that improvements that have been made in Wilmington are not helping enough and it would be prudent to work to include Wilmington in the project.

Councilwoman Perry added that she hopes as staff goes through the development of the Boyle Heights plan, they will recognize the interconnectedness of issues to Wilmington and remember that what is done in one area will benefit the next one. She questioned whether the study will result in a compliance and enforcement strategy for the area.

Dr. Wallerstein confirmed that a set of actions for implementation will result from the studies.

The public hearing was opened, and the following individuals addressed the Board on Agenda Item 35.

RAFAEL YANEZ, Boyle Heights citizen

Encouraged by the plan to use Boyle Heights in the pilot study and to get a better idea of the effects of the various pollutant sources to their community and neighboring cities.

CYNTHIA BABICH, Del Amo Action Committee

Expressed support for the Plan and her belief that the Community Exposure Reduction Plan will be a very useful tool, but would have rather seen different environmental justice communities chosen as the pilot areas. They are optimistic for the success of the plan as a result of the neighborhood walks, the potential of creating buffer zones and the enforcement component.

ANGELO LOGAN, East Yard Communities for Environmental Justice

Expressed support of the Clean Communities Plan and thanked staff for the work completed in its development; urged the Board to approve the plan and move as quickly as possible into implementation; and urged the Board to address the District's role in cumulative impacts through the permitting process in the future.

BILL QUINN, California Council for Environmental and Economic Balance

Expressed their appreciation for the collaboration with staff that was involved in the plan's development and stressed the importance of the positioning of new facilities in an effort to avoid creating new environmental justice communities.

MONSIGNOR JOHN MORETTA, Pastor of Resurrection Church

Explained that his parish is located in Boyle Heights, and they have been subject to many unwanted projects and businesses throughout the years; so, they are thankful that Boyle Heights will be a template for better controlling or eliminating the pollution they are exposed to.

BILL LAMARR, California Small Business Alliance

Explained that as a member of the Clean Communities Plan Working Group he has been involved in the development of the Plan; however he cannot support it in its present form because it is not a plan to build a cleaner and healthier community, but rather a plan that makes it even more difficult for small businesses to operate in small neighborhoods that would benefit from the jobs and tax revenue provided. Expressed concern with the neighborhood walks detailed in the plan that will be conducted for the sole purposes of investigating

someone's complaints about a business by assembling a group of stakeholders and then marching on the business to view the alleged violations, rather than having staff first check the operating and compliance history of the business to see if the business is operating within the conditions of their permit before assembling a crowd just outside their business. He suggested creating a plan that identifies and praises employers who are in compliance with regulations and have reduced health risks in their communities through innovation and investment in technology; and urged the Board to consider putting these exemplary businesses on a preferred vendors list and encouraging the community to utilize their services in order to improve relations, contribute to economic growth and produce overall positive results in local communities. (Submitted Written Comments)

Dr. Wallerstein clarified that staff took into account comments from community members from town hall meetings and the working group regarding going into the communities and walking with individuals in order to view any issues that they believe are problematic; and he explained that staff would not be marching on businesses, but simply expanding on what is currently done when the District receives complaints, which involves a visit to the area to see firsthand whether there are issues that may need to be addressed. Staff then researches those issues to determine whether there is a need for further action. He added that this element of the Plan will help to increase public awareness of what constitutes a valid concern, and will allow staff to better analyze a complaint and determine whether there is a problem or not. He extended the opportunity for Mr. LaMarr to join staff on the first walk in order to see what is involved and how the walks will be conducted.

Dr. Lyou shared his experience working with a community group that had a concern about auto dismantlers in their community. They researched the industry and a partnership was eventually formed between the auto dismantlers and the group, and they both benefited from the group's desire to create a healthier environment. He added that he supports Mr. LaMarr's suggestion that the District recognize small business efforts and suggested adding a category to the Clean Air Awards for small businesses.

Supervisor Benoit questioned the due process rights available to small business if they are identified in a neighborhood walk as a result of an individual's complaint, and expressed concern that they would be branded with a negative mark for being identified as a result, even if they were eventually found to be in compliance.

Dr. Wallerstein indicated that during the walks there will be instances where staff will be knowledgeable enough on the spot to say that the particular concern is not a problem and explain why; and, then, there will be other instances where staff would need to research that business or industry before responding to the concern. If the determination is made that there is a violation of District rules, the business would then be contacted through the normal procedure that is in place. He added that currently, when someone calls the

1-800-CUT-SMOG line and makes a complaint about odor or the observation of pollutant emissions, an inspector goes out and observes what is occurring; the walk will simply expand on that process and allow interested parties to have more participation in the process. He expressed that this will be a joint educational opportunity for the community as well as business leaders in order to demystify certain aspects of air pollution and what constitutes a risk. He reminded the Board of a past pilot program that is similar to the grades given to restaurants, where the District could recognize those businesses that are in compliance and working within the community to address air pollution.

JESSE N. MARQUEZ, Coalition for a Safe Environment

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Stressed the importance of educating individuals about what pollution issues they should be looking out for, as well as educating the business community about what requirements apply to them in regards to District regulations and also advising them of the availability of funds through the Carl Moyer Program and other similar efforts that will reduce the cost to the small businesses; urged the Board to approve rules and regulations and programs and projects that will, at some point, reduce all emissions to less than significant and include a health risk assessment that has a requirement of less than one in a million impact; and illustrated the unique concerns that face Wilmington, not only because of the proximity to the ports, but to the refineries as well. (Submitted Written Comments)

There being no further public testimony on this item, the public hearing was closed.

Dr. Wallerstein expressed a concern that incorporating additional cities during the pilot stage could result in diffusing the strength of the resources which will be deployed to San Bernardino and Boyle Heights.

Ms. Carney recognized staff's choice of San Bernardino even though the Board does not receive high participation from individuals or community groups there. She suggested that staff go forward with two pilot projects as proposed and then add two more at the conclusion.

Dr. Wallerstein indicated that staff could start working on the next phase of the project prior to the conclusion of the pilot studies in order to address the concerns raised by the Board Members regarding port cities.

Councilman Cacciotti proposed the addition of language to the Resolution that would establish a recognition program for the businesses community.

MOVED BY LYOU, SECONDED BY BURKE, AND UNANIMOUSLY CARRIED (Absent: Campbell, Gonzales, Loveridge, Perry and Pulido), AGENDA ITEM 35 APPROVED, ADOPTING RESOLUTION NO. 10-30 APPROVING THE 2010 CLEAN COMMUNITIES PLAN, AS RECOMMENDED BY STAFF WITH THE MODIFICATION TO THE ADOPTING RESOLUTION AS NOTED BELOW.

Insert between the first and second paragraphs on page 2 of the adopting Resolution:

“NOW, THEREFORE BE IT RESOLVED, that the AQMD staff will develop, with input from the local residential and business community, as part of the Clean Communities Plan, a recognition program for local small and large businesses who exemplify the best available control technologies and practices that reduce exposure to air toxics.”

36. Adopt Proposed Rule 1714 - Prevention of Significant Deterioration for Greenhouse Gases, and Amend Regulation XXX – Title V Permits

Jill Whynot, Director of Strategic Initiatives, gave the staff presentation.

The public hearing was opened, and the following individuals addressed the Board on Agenda Item 36.

MIKE CARROLL, Latham & Watkins, LLP

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Expressed understanding that the agency is faced with a difficult decision between implementing an ill-conceived federal mandate or finding itself potentially in violation of federal requirements; explained that the proposal is problematic because no one knows what will be required to demonstrate compliance with these requirements; and asked the Board to remain mindful of the stakeholder concerns when decisions regarding this issue come up in the future. (Submitted Written Comments)

Dr. Wallerstein noted that he would gladly meet with Mr. Carroll to discuss his concerns, as staff has developed a good relationship with U.S. EPA and he is now on the Board of Directors for the National Association of Clean Air Agencies that periodically gets briefed by U.S. EPA staff on these various issues that Mr. Carroll raised.

HARVEY EDER, Public Solar Power Coalition

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Expressed his support for an even stricter regulation as the State moves toward solar renewables to reduce GHG emissions.

There being no further public testimony on this item, the public hearing was closed.

Ms. Carney asked staff if the U.S. EPA has not established what constitutes BACT in a particular circumstance, does the District have the ability to not enforce the requirement. She also questioned how this rule would coordinate with the CARB GHG regulatory program.

Dr. Wallerstein replied that the District's obligation is to go forward with BACT until U.S. EPA provides guidance in the future; added that BACT evolves over time, so the District will be working closely with the facilities, CARB and with U.S. EPA on making appropriate determinations; and noted that U.S. EPA's initial draft rule had a very low threshold that would have triggered these requirements for many facilities, but they were responsive to comments from AQMD and other air agencies and decided to start with a very high threshold so there will now be a very limited number of projects. This will allow staff to learn and to improve the process before it applies to a large number of facilities. In regards to the coordination with the CARB GHG regulations, he replied that staff would have to look at the requirements of each rule and hopefully compliance can be attained by simply following CARB's regulation.

In response to Councilwoman Mitchell's inquiry regarding developing BACT standards in the absence of federal guidelines, Dr. Wallerstein explained that currently, the District has to make an independent determination on every permit issued for traditional air pollutants, but the process involves the air districts coordinating with CARB and U.S. EPA to develop some general understanding of what is the BACT for different types of equipment and industries.

In response to Councilwoman Mitchell's inquiry into the timeline for the development, Ms. Whynot replied that there is a Clean Air Act Advisory Working Group that has been working to come up with BACT; and, before the end of the year, they are going to provide guidelines for some of the major categories of equipment, such as boilers, turbines and heaters. In most instances the BACT for a greenhouse gas combustion source would be energy efficiency, so it will require staff to balance the most efficient equipment that can also meet BACT for criteria pollutants. In many cases, however, BACT for greenhouse gases is not an add-on control technology that will need to be implemented.

Councilwoman Mitchell asked how the Rule will affect the entities that the District regulates, aside from the Title V and PSD programs.

Ms. Whynot replied that, in the future, if there are federal GHG requirements that would apply to these facilities, those would be incorporated on their Title V permits. Currently, the only federal requirement is the mandatory reporting of GHG; however, U.S. EPA does not require that information to be included in a Title V permit. She added that if a federal standard or federal cap-

and-trade program were put in place, then that information would be in the Title V permit.

In response to Councilwoman Mitchell's questioning regarding working with entities to make sure whatever BACT impositions are placed on them now will be coordinated with future GHG requirements, Dr. Wallerstein noted that the Board established a BACT working group which reviews various issues concerning the District's BACT Guidelines before an item goes to the Stationary Source Committee and finally to the Board. He suggested that the District use a similar structure for GHG requirements.

Supervisor Benoit raised a concern that with legal issues pending and challenges being made to the basic premise of federal regulation of greenhouse gases, the Board is moving too fast with implementing regulations.

Dr. Wallerstein acknowledged that while there is continuing litigation over the endangerment finding issue, if the District does not implement this regulation, U.S. EPA will implement PSD and Title V, and then serve the District with a deficiency notice. Therefore, it is ideal to have more control over the issue at this point to avoid consequences that will potentially be worse.

In response to a request from Ms. Carney, Dr. Wallerstein confirmed that staff will provide a report to the Board relative to the position the Board might take on legislation or litigation relative to this issue. He urged the Board to put the regulation in place prior to January to avoid ill-effects as a result of the U.S. EPA instituting requirements; clarified that this does not conflict with the CARB cap-and-trade program because it does not require permits; and assured the Board that staff will monitor developments on the matter and provide a report as necessary.

MOVED BY YATES, SECONDED BY CACCIOTTI,  
AGENDA ITEM 36 APPROVED, ADOPTING  
RESOLUTION NO. 10-31 CERTIFYING THE FINAL  
ENVIRONMENTAL ASSESSMENT AND ADOPTING  
RULE 1714, AS RECOMMENDED BY STAFF, BY  
THE FOLLOWING VOTE:

AYES: Burke, Cacciotti, Carney, Lyou, Mitchell,  
Perry, and Yates.

NOES: Benoit.

ABSENT: Antonovich, Campbell, Gonzales,  
Loveridge, and Pulido.

37. Amend Regulation XX - RECLAIM Program

Dr. Laki Tisopoulos, Assistant DEO/Planning, Rule Development and Area Sources, gave the staff presentation. An errata sheet containing modifications to Appendix E of the final PEA for Proposed Amended Regulation XX was distributed to Board members and copies made available to the public.

The public hearing was opened, and the following individuals addressed the Board on Agenda Item 37.

CATHERINE REHEIS BOYD, Western States Petroleum Association (WSPA)

Acknowledged the cooperative working relationship established with staff in developing the proposal and the challenging, costly requirements associated with it; recognized that the proposal is a result of many years of development; underscored the importance of maintaining jobs; and expressed support for the staff proposal.

ROD SPACKMAN, Chevron Corporation

Expressed support for the proposal, indicating that the rule will provide significant long term air quality benefits in the region; and commented that Chevron already performs to a very high standard to control SOx emissions and they are prepared to take on this next challenge and to further improve air quality for neighboring communities.

ADRIAN MARTINEZ, Natural Resources Defense Council

Acknowledged the benefits that will be seen as a result of this rule; and asked for clarification regarding the subsequent submission of 1.7 tons per day at a later date.

MARK LANDRE, Employee at Tesoro Refinery

Expressed concern with the costly effects of the new guidelines, especially after expensive changes were made in 2007 to reduce SOx to meet the requirements at that time. While he understands the need for clean air, he believes these new regulations will result in jobs being lost.

Chairman Burke commented that ten people die each day in the South Coast Air Basin as a result of the negative impacts of air pollution. The District staff and Refinery Committee members worked to strike a balance between protecting public health and minimizing the negative economic impact of imposing stricter limits.

JESSICA DUBOFF, Los Angeles Chamber of Commerce

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Expressed support for the staff proposal on behalf of the LA Chamber of Commerce in conjunction with the South Bay Association Chamber of Commerce, the Long Beach Chamber and the Harbor Association of Industry and Commerce.

DEAN HARRIS, Owens Brockway

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Explained that they were concerned with the technology and permitting issues associated with the proposal, and they feel that staff has done a good job of addressing those concerns.

CHARLES MEEKS, Employee at Tesoro Refinery

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Stressed the importance of guaranteeing the safety of jobs within the refineries given the added expenses to the industry.

Dr. Burke explained that the Board Members recognize the importance of small and big business to the economy, so they are trying to make the best compromise and do not intend to cause a burden on refineries that would require them to lay off employees.

LUIS CABRALES, Coalition for Clean Air

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Expressed support for the proposal and requested clarification on how the additional 1.7 tons of emission reductions will be addressed.

There being no further public testimony on this item, the public hearing was closed.

Written Comments Submitted By:

Robert D. Byerley, Valero Refinery  
Melissa Manke Fimbres, Valero Refinery  
John C. Fragua  
Ronald Stein, PTS Staffing Solutions  
Los Angeles County Business Federation  
Future Ports  
Lee Wolff, Valero  
Torrance Chamber of Commerce  
Bingham McCutchen LLP on behalf of Rhodia, Inc.  
George Kivett, South Bay Association of Chambers of Commerce  
Randy Gordon, Long Beach Area Chamber of Commerce  
Tabb Bubbier, Harbor Association of Industry & Commerce

Supervisor Antonovich commented that he recognizes the significant emission reductions that are being made as a result of this action, and he understands the substantial compliance cost it will have; and urged Board

Members and staff to be mindful of the huge steps that the refineries have taken during the development of the next AQMP.

Dr. Lyou asked for clarification from staff regarding the comments about the 1.7 tons submittal.

Dr. Wallerstein responded that the early reductions are put into the SIP because once it is in the SIP, it is hard to make a modification if needed; and since this regulation goes above and beyond what was in the AQMP commitment, the remaining tons will be submitted into the SIP at a later time as may be needed.

Dr. Lyou recognized the significance of the accomplishment that has been made in developing a proposal that protects public health and helps grow a green economy.

Ms. Carney expressed her gratitude towards staff, WSPA and other stakeholders whom she worked with during the arduous development of the Rule, as Chair of the Refinery Committee.

Councilwoman Mitchell acknowledged the complexity of the subject matter and thanked staff for tirelessly working to ensure she had the information necessary to participate in the discussions as a Refinery Committee member. She is proud that there is a resolution that works for both the environment and the economy while ensuring the refineries can undertake this project and reduce the emissions without losing any jobs or having a negative impact on the economy.

Supervisor Benoit commented that the Rule is a compromise that was necessitated by U.S. EPA, and commended staff and the industry for working to make refineries in Southern California further stand out amongst the cleanest refineries in the world.

Mayor Yates expressed confidence in the compromise that has been reached as a result of many meetings and consultations with stakeholders.

MOVED BY CARNEY, SECONDED BY YATES,  
AND UNANIMOUSLY CARRIED (Absent:  
Campbell, Loveridge, Gonzales and Pulido),  
AGENDA ITEM 37 APPROVED, ADOPTING  
RESOLUTION NO. 10-32 CERTIFYING THE FINAL  
PROGRAM ENVIRONMENTAL ASSESSMENT  
(PEA) AND AMENDING REGULATION XX - RULE  
2002, AS RECOMMENDED BY STAFF, WITH THE  
MODIFICATION OF REPLACING APPENDIX E OF  
THE FINAL PEA AS SET FORTH IN THE ERRATA  
SHEET.

38. Amend Rule 1175 – Control of Emissions from the Manufacture of Polymeric Cellular (Foam) Products

Staff waived the oral presentation on Item No. 38.

The public hearing was opened and, there being no requests from the public to comment on this item, the public hearing was closed.

Written Comments Submitted By:

Ben Bacon, Western Region Pactiv Corporation

MOVED BY LYOU, SECONDED BY YATES, AND UNANIMOUSLY CARRIED (Absent: Campbell, Loveridge, Gonzales and Pulido), AGENDA ITEM 38 APPROVED, ADOPTING RESOLUTION NO. 10-33 CERTIFYING THE NOTICE OF EXEMPTION AND ADOPTING RULE 1175, AS RECOMMENDED BY STAFF.

**OTHER BUSINESS**

39. Overview of CARB's Recently Released Cap-and-Trade Regulation with Staff's Preliminary Comments and Recommendations

Dr. Wallerstein introduced the item indicating that CARB recently released the draft cap-and-trade program and a number of the Board's directives to staff are not reflected in the State proposal. Staff would, therefore, like further direction in order for the Executive Officer to testify at CARB on this issue in November.

Jill Whynot, Director of Strategic Initiatives, gave the staff presentation explaining that staff was poised to perform various roles to assist with the cap-and-trade program, but the proposed rules that were recently released from CARB provide a disappointing outlook with respect to staff actually being able to perform any of these functions. Staff requested the Board direct staff to meet with CARB and Cal/EPA; testify at workshops and the initial CARB Board discussion in November; prepare a comment letter and report back to the Board at the December 3, 2010 meeting with the status of the communication with CARB.

Dr. Burke commented that this draft is one more indication of CARB's lack of desire for input from the District.

The consensus of the Board was to approve staff's request and to direct the Executive Officer to express the Board's displeasure at CARB's non-responsiveness with regard to the cap-and-trade program as well as other issues that have been before the Board.

The following individuals addressed the Board to comment on Item 39.

Harvey Eder, commented that one of the reasons CARB may be slighting the District is that they were worried about a proposition halting AB 32 passing and then they would be out of ammunition.

Trisha Amaron, asked if she could receive a copy of the staff presentation as there was no written material for Item 39.

Staff made contact with Ms. Amaron to provide her with the requested information.

**PUBLIC COMMENT PERIOD** – (Public Comment on Non-Agenda Items, Pursuant to Government Code Section 54954.3)

There was no public comment on non-agenda items.

**CLOSED SESSION**

The Board recessed to closed session at 12:15 p.m., pursuant to Government Code section 54956.9(a) to confer with its counsel regarding pending litigation which has been initiated formally and to which the District is a party, as follows:

- South Coast Air Quality Management District v. Rimpo & Associates, Los Angeles Superior Court Case No. BC432208.

It was also necessary for the Board to recess to closed session under Government Code section 54956.9(c) to consider initiation of litigation (one case).

Following closed session, General Counsel Kurt Wiese announced that a report of any reportable actions taken in closed session will be filed with the Clerk of the Board and made available upon request.

**ADJOURNMENT**

There being no further business, the meeting was adjourned by General Counsel Kurt Wiese at 12:35 p.m.

The foregoing is a true statement of the proceedings held by the South Coast Air Quality Management District Board on November 5, 2010.

Respectfully Submitted,

Denise Pupo  
Senior Deputy Clerk

Date Minutes Approved: \_\_\_\_\_

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Dr. William A. Burke, Chairman

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**ACRONYMS**

AQMP = Air Quality Management Plan  
BACT = Best Available Control Technologies  
Cal/EPA = California Environmental Protection Agency  
CARB = California Air Resources Board  
CNG = Compressed Natural Gas  
FY = Fiscal Year  
GHG = Greenhouse Gas  
MSRC = Mobile Source (Air Pollution Reduction) Review Committee  
NAAQS = National Ambient Air Quality Standard  
PEA = Final Program Environmental Assessment  
PSD = Prevention of Significant Deterioration  
RECLAIM = Regional Clean Air Incentives Market  
RFP = Request for Proposals  
RFQ = Request for Quotations  
SIP = State Implementation Plan  
SO<sub>x</sub> = Oxides of Sulfur  
U.S. EPA = United States Environmental Protection Agency  
WSPA = Western States Petroleum Association